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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

PATRICK INSCHO, on behalf of himself and
all consumers similarly situated,

Plaintiff,

vs.

EQUIFAX INFORMATION SERVICES,
LLC,

Defendant.

CLASS ACTION COMPLAINT

JURY DEMANDED

The Plaintiff, Patrick Inscho, on behalf of himself and all consumers similarly situated, files this Complaint against Defendant Equifax Information Services, LLC (“Equifax”). In support thereof, Plaintiff alleges as follows:

PRELIMINARY STATEMENT

1. This is an action for actual, statutory, and punitive damages, costs, and attorney fees brought against Equifax pursuant to the Fair Credit Reporting Act (“FCRA”), 15 U.S.C. §

1 1681 *et seq.* Before the enactment of the FCRA, inaccurate and misleading information was
2 identified as “the most serious problem in the credit reporting industry.” 115 Cong. Rec. 2411
3 (Jan. 31, 1969). With this problem in mind, Congress enacted the FCRA in 1970 to ensure the
4 “confidentiality, accuracy, relevancy, and proper utilization” of credit reports. 15 U.S.C. §
5 1681(b).

6 2. To accomplish Congress’s goals, the FCRA contains a variety of requirements to
7 protect consumers, including § 1681e(b), which is one of the cornerstone provisions of the FCRA.
8 Whenever a consumer reporting agency (“CRA”) prepares a consumer report, § 1681e(b) requires
9 the CRA to follow reasonable procedures to assure maximum possible accuracy of the information
10 concerning the individual about whom the report relates. 15 U.S.C. § 1681e(b). This section
11 imposes a high, and often disregarded, standard on CRAs. *See, e.g., Burke v. Experian Info. Sols.,*
12 *Inc.*, 2011 WL 1085874, at *4 (E.D. Va. Mar. 18, 2011) (breaking down the requirements of §
13 1681e(b), and explaining that “ ‘assure’ means ‘to make sure or certain: put beyond all doubt,’”
14 “[m]aximum’ means the ‘greatest in quantity or highest degree attainable[.]’ and ‘possible’ means
15 something ‘falling within the bounds of what may be done, occur or be conceived’” (quoting
16 *Webster’s Third New International Dictionary* 133, 1396, 1771 (1993)).

17 3. Equifax is a consumer-reporting agency that compiles and maintains files on
18 consumers on a nationwide basis. As part of this process, Equifax uses an automated and
19 systematic procedure to gather and report derogatory public records in credit reports, such as tax
20 liens and judgments. However, Equifax does not follow similar procedures to gather updated
21 information when the tax lien or judgment is released, satisfied, vacated or otherwise removed.
22 Equifax’s failure to timely gather updated information is a violation of 15 U.S.C. § 1681e(b)
23 because Equifax has not implemented reasonable procedures to ensure the maximum possible
24 accuracy in the preparation of the consumer reports that it furnished regarding Plaintiff and the
25 class members.

26 **JURISDICTION**

27 4. The Court has jurisdiction under the FCRA, 15 U.S.C. § 1681p and 28 U.S.C. §
28 1331. Venue is proper in this Court under 28 U.S.C. § 1391(b) because a substantial part of the

1 events giving rise to the claim occurred in this District, as the suit challenges Equifax's procedures
2 for properly reporting Nevada public record information.

3 **PARTIES**

4 5. Plaintiff is a natural person, and a "consumer" as defined by the § 1681a(c) of the
5 FCRA.

6 6. Equifax is a foreign limited liability company authorized to do business, and
7 regularly doing business, in Nevada. Equifax is a "consumer reporting agency" as defined in 15
8 U.S.C. §1681a(f). Equifax is regularly engaged in the business of assembling, evaluating, and
9 disbursing information concerning consumers for the purpose of furnishing consumer reports, as
10 defined in 15 U.S.C. §1681a(d) to third parties.

11 **FACTUAL ALLEGATIONS**

12 **A. Equifax's Procedures.**

13 7. Unlike credit accounts, Equifax affirmatively seeks out and purchases public
14 records data, including Nevada tax liens and civil judgments, to include this derogatory
15 information in the credit reports it sells.

16 8. Equifax proactively gathers and disseminates this derogatory information even
17 though there is nothing in the FCRA that affirmatively requires it to do so.

18 9. Equifax does not follow reasonable procedures to gather information when the tax
19 liens or judgments are released, satisfied, vacated, appealed, or similarly dismissed, with the same
20 rigor and process that it employs to gather information initially.

21 10. Equifax uses a third party as a vendor to collect information regarding judgments
22 and tax liens.

23 11. Equifax's vendor was obligated to collect and provide all affirmative tax liens and
24 judgments under its contract with Equifax. However, in contrast, the vendor was only obligated to
25 collect and provide updates and dispositions if the vendor determined it was "commercially
26 reasonable" to do so.

27 12. As a matter of common policy, Equifax and its vendors rarely collect any tax lien
28 or judgment disposition information.

1 13. In short, Equifax published public records data that it knew would be inaccurate if a
2 release, satisfaction, dismissal, vacatur, or appeal had occurred—relying on consumers to clean up
3 their own files via the dispute process after learning of the inaccuracy, rather than paying to have
4 these dispositions collected with the same vigor that it collected records of the initial entry of the
5 judgment or lien.

6 14. As a matter of common practice, Equifax does not routinely collect this information
7 even though Equifax has been sued repeatedly for its failure to adopt reasonable procedures to
8 timely gather and report updated public record information. *See, e.g., Soutter v. Equifax Info.*
9 *Servs., LLC*, 307 F.R.D. 183, 191 (E.D. Va. 2015); *Ceccone v. Equifax Info. Servs., LLC*, 2015
10 WL 221720, at *1 (D.D.C. Jan. 15, 2015); *Jerman v. Equifax Info. Servs., LLC*, Case No. 1:17-cv-
11 0602 (D. HI. 2017).

12 15. The methods and processes used by Equifax to gather releases, satisfactions,
13 vacaturs, and dismissals throughout Nevada was materially the same for the five years preceding
14 the date of filing of this Complaint.

15 16. At all times pertinent to this Complaint, Equifax’s conduct regarding the collection
16 of disposition information was willful and carried out in reckless disregard for a consumer’s rights
17 as set forth under the FCRA. By example only and without limitation, Equifax’s conduct is willful
18 because it was intentionally accomplished through intended procedures; it had knowledge of its
19 violation through other lawsuits in other jurisdictions but it did nothing to rectify the problem in
20 Nevada; and as Equifax’s diligence in collecting and reporting derogatory information is believed
21 by it to be of greater economic value to its paying customers than “disposition” information that
22 demonstrated that the debt was no longer owed to those customers.

23 17. As a result of Equifax’s conduct, Plaintiff and the putative class members suffered
24 particularized and concrete injuries, including damages to their reputations, reductions to their
25 credit scores, and increased risks that they would be denied credit.

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B. Plaintiff's Experience.

18. In April 2017, Plaintiff obtained a copy of his credit report from Equifax and discovered that Equifax was reporting an outstanding tax lien with a balance of \$33,744 against him recorded with the Clark County Recorder.

19. As described above, Equifax's reporting of the tax lien was inaccurate and occurred because Equifax failed to follow reasonable procedures to assure maximum possible accuracy in the preparation of the credit reports it publishes and maintains regarding consumers.

20. In Plaintiff's instance, if Equifax had followed such procedures, Equifax would have reported an update to the public record showing that the tax lien had been satisfied on June 29, 2012.

21. Further, that same tax lien was withdrawn on August 30, 2016. Despite this Equifax continued to report the tax lien as unpaid.

22. Indeed, the information regarding the release and withdrawal of Plaintiff's tax lien was publically available on the Internet through the database maintained by the Clark County Recorder—an easily accessible database to Equifax.

23. However, consistent with its procedures, Equifax made no effort to update and correct the tax lien information from June 29, 2012, through the present.

24. During this time, Equifax published Plaintiff's credit report to multiple third parties, damaging his reputation and causing increased interest rates or credit denials, including when Plaintiff applied for credit with Capital One Bank and USAA Federal Savings Bank.

COUNT ONE:
15 U.S.C. §1681e(b)
Class Claim

25. Plaintiff restates each of the allegations in the preceding paragraphs as if set forth at length herein.

26. **The 1681e(b) Class.** Pursuant to Fed. R. Civ. P. 23, Plaintiff brings this action individually and on behalf of a class initially defined as follows ("the 1681e(b) Class"):

All natural persons about whom Equifax reported an unpaid Nevada judgment or lien when in fact the judgment or lien had been satisfied more than 30 days before

1 the date of Equifax's report.

2 27. **Numerosity.** Upon information and belief, the Plaintiff alleges that the FCRA
3 Class is so numerous that joinder of the claims of all class members is impractical. The names
4 and addresses of the class members are identifiable through documents maintained by Equifax
5 and through publically available records throughout Nevada, and the class members may be
6 notified of the pendency of this action by published and/or mailed notice.

7 28. **Existence and Predominance of Common Questions of Law and Fact.**
8 Common questions of law and fact exist as to all putative class members. These questions
9 predominate over the questions affecting only individual members. These common legal and
10 factual questions include, among other things: (a) whether Equifax adopted procedures that
11 collected and reported updates to liens that were less systematic and effective than those it used
12 to initially collect and report the liens; (b) whether this conduct constituted a violation of the
13 FCRA; and (c) whether the violation was negligent, reckless, knowing, or intentionally committed
14 in conscious disregard of the rights of the Plaintiff and putative class members.

15 29. **Typicality.** Plaintiff's claims are typical of the claims of each putative class
16 member and all are based on the same facts and legal theories. Plaintiff, as every putative
17 class member, alleges a violation of the same FCRA provision, 15 U.S.C. §1681e(b). This
18 claim challenges the credit reporting procedures of Equifax and does not depend on any
19 individualized facts. Upon information and belief, Equifax obtains all of its Nevada public records
20 under the same contract from the same vendor. Equifax's notice and knowledge of the
21 challenged reporting problem is the same for Plaintiff as for the putative class. For purposes of
22 class certification, Plaintiff seeks only statutory and punitive damages. Plaintiff would seek
23 individual or actual damages only if class certification is denied. In addition, Plaintiff is entitled to
24 the relief under the same causes of action as the other members of the class.

25 30. **Adequacy.** Plaintiff will fairly and adequately protect the interests of the class.
26 Plaintiff has retained counsel experienced in handling actions involving unlawful practices against
27 consumers, and class actions. Neither Plaintiff nor his counsel have any interests that might
28

1 cause them not to vigorously pursue this action. Plaintiff is aware of his responsibilities to the
2 putative class and has accepted such responsibilities.

3 31. Certification of the class under Rule 23(b)(3) of the Federal Rules of Civil
4 Procedure is also appropriate in that:

5 a. As alleged above, the questions of law or fact common to the members of the
6 classes predominate over any questions affecting an individual member. Each of the common
7 facts and legal questions in the case overwhelm the more modest individual damages issues.
8 The statutory and punitive damages sought by each member are such that the individual
9 prosecution would prove burdensome and expensive given the complex and extensive litigation
10 necessitated by Equifax's conduct. Further, those individual issues that do exist can be effectively
11 streamlined and resolved in a manner that minimizes the individual complexities and differences
12 in proof in the case.

13 b. A class action is superior to other available methods for the fair and efficient
14 adjudication of the controversy. Consumer claims generally are ideal for class treatment as they
15 involve many, if not most, consumers who are otherwise disempowered and unable to afford
16 and bring such claims individually. Further, most consumers affected by Equifax's conduct
17 described above are likely unaware of their rights under the law or of whom they could find to
18 represent them in federal litigation. Individual litigation of the uniform issues in this case would
19 be a waste of judicial resources. The issues at the core of this case are class wide and should
20 be resolved at one time. One win for one consumer would set the law for every similarly situated
21 consumer.

22 32. Equifax violated 15 U.S.C. § 1681e(b) by failing to establish or to follow
23 reasonable procedures to assure maximum possible accuracy in the preparation of the consumer
24 reports it furnished regarding the Plaintiff and putative class members.

25 33. As a result of Equifax's misconduct, the Plaintiff and putative class members
26 suffered damages to their reputations, reductions to their credit scores, and increased risk that they
27 would be denied credit.

